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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272 and 273

[FNS 2015-0038]

RIN 0584-AE41

Supplemental Nutrition Assistance Program: Student Eligibility, Convicted Felons, Lottery and Gambling, and State Verification Provisions of the Agricultural Act of 2014

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Proposed rule.

SUMMARY: The proposed action would implement four sections of the Agricultural Act of 2014, (2014 Farm Bill), affecting eligibility, benefits, and program administration requirements for the Supplemental Nutrition Assistance Program (SNAP). Section 4007 clarifies that participants in a SNAP Employment & Training (E&T) program are eligible for benefits if they are enrolled or participate in specific programs that will assist SNAP recipients in obtaining the skills needed for the current job market. Section 4008 prohibits anyone convicted of Federal aggravated sexual abuse, murder, sexual exploitation and abuse of children, sexual assault, or similar State laws, and who are also not in compliance with the terms of their sentence or parole or are a fleeing felon, from receiving SNAP benefits. Section 4009 prohibits households containing a member with substantial lottery and gambling winnings from receiving SNAP benefits, until the household meets the allowable financial resources and income eligibility requirements of

the program. Section 4009 also provides that State SNAP agencies are required, to the maximum extent practicable, to establish cooperative agreements with gaming entities in the State to identify SNAP recipients with substantial winnings. Section 4015 requires all State agencies to have a system in place to verify income, eligibility and immigration status.

DATES: Written comments must be received on or before [insert date that is 60 days after publication in the Federal Register] to be assured of consideration.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

- *Preferred Method:* Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

- *Fax:* Submit comments by facsimile transmission to: Sasha Gersten-Paal, Certification Policy Branch, Fax number 703–305–2486.

- *Mail:* Send comments to Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, FNS, 3101 Park Center Drive, Alexandria, Virginia 22302, 703-305-2507.

All written comments submitted in response to this proposed rule will be included in the record and made available to the public. Please be advised that the substance of comments and the identity of individuals or entities submitting the comments will be subject to public disclosure. FNS will make written comments publicly available online at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302, 703-305-2507.

SUPPLEMENTARY INFORMATION:

Background

Section 4007: Student Eligibility Disqualifications

Students enrolled at least half-time in an institution of higher education are ineligible to participate in SNAP under section 6(e)(3)(B) of the Food and Nutrition Act of 2008 (the Act), as amended, and 7 CFR 273.5(a). There are several exemptions to this prohibition, one of which is for students assigned to or placed in an institution of higher education under a SNAP E&T program.

Section 4007 of the 2014 Farm Bill (Public Law 113-79) amends Section 6(e)(3)(B) of the Act by providing additional detail as to what SNAP E&T-assigned education programs and/or courses satisfy the exemption for higher education under a SNAP E&T program. In particular, section 4007 provides that the exemption is limited to those who are enrolled in a course or program of study that is part of a program of career and technical education (as defined in Section 3 of the Carl D. Perkins Career and Technical Education Act of 2006) (the Perkins Act) that may be completed in not more than 4 years at an institution of higher education (as defined in section 102 of the Higher Education Act of 1965), or enrolled in courses for remedial education, basic adult education, literacy, or English as a second language.

Currently, individuals enrolled at least half-time in an institution of higher education are not eligible for SNAP benefits unless the individual meets at least one of the exemption criteria under 7 CFR 273.5(b), including section 273.5(b)(11)(ii), which exempts individuals assigned to an E&T program under section 273.7. The E&T exception to the student rule, as described at section 273.7(e)(1)(vi), includes educational programs or activities to improve basic skills or otherwise improve employability including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program. The State must establish a link between the education and job-readiness.

The Department of Agriculture (the Department) is proposing to revise section 273.5(b)(11)(ii) to incorporate section 4007's modifications to the eligibility requirements for students who are participating in an E&T education component. The additional language would essentially track the language in Section 4007. Criteria contained at section 273.7(e)(1)(vi) are also proposed to be revised to include courses or programs of study that are part of a program of career and technical education (as defined in section 3 of the Perkins Act). Other criteria contained at section 273.7(e)(1)(vi) would remain unchanged. For example, individuals participating in remedial courses, basic adult education, literacy instruction or English as a second language would also continue to qualify for the student exemption. The purpose of this exemption is to connect participants to programs that lead to employment and economic self-sufficiency. The Department strives to ensure that SNAP E&T programs are aligned with effective

practices in workforce development. As such, for the purpose of this exemption, courses or programs of study that are part of a program of career and technical education may be offered concurrently or contextually with remedial courses, basic adult education, literacy instruction or English as a second language.

Section 3 of the Perkins Act provides a general definition of the term “career and technical education.” The Department understands that States have some discretion to determine what courses meet that general definition. That is, while all States have adopted the basic definition, they also have State-specific criteria as well. For example, States may choose to include more rigorous requirements or specific courses, among other individually-tailored standards. The Department also notes that the program does not have to be receiving Perkins funding, it would just need to meet the general definition. For these reasons, the Department believes that State agencies are in the best position to determine what courses or programs of study are parts of a program that meets the definition of career and technical education under the Perkins Act for SNAP as well. The Department is interested in receiving comments on following this approach.

Section 4007 provides that the course or program of study may be completed in not more than four years. The Department notes that many students pursuing four-year degrees are unable to finish in that time. Therefore, the Department is proposing that students participating in qualifying courses or programs of study that are designed to be completed in up to four years, but actually take longer than four years to complete, satisfy the new requirement.

Thirty-four States offered education components through their E&T programs in FY 2015. These States would need to evaluate whether those components meet the student eligibility criteria proposed in this rule. However, the Department believes that the cost implications of this proposed rule for those States are minimal and the provisions do not materially alter the rights and obligations of SNAP recipients because there would continue to be work requirement exemptions for students enrolled more than half-time in an institution of higher education under section 273.7(b)(viii).

Section 4008: Eligibility Disqualifications for Certain Convicted Felons

Section 4008 of the 2014 Farm Bill added new section 6(r)(1) to the Act to prohibit anyone convicted of certain sexual crimes, child abuse, and murder who are also not in compliance with the terms of their sentence, or who are fleeing felons or parole or probation violators as described in section 6(k) of the Act, from receiving SNAP benefits. The listed offenses in section 4008 include the following: (i) aggravated sexual abuse under section 2241 of Title 18, United States Code, (ii) murder under section 1111 of Title 18, United States Code, (iii) sexual exploitation and other abuse of children under chapter 110 of Title 18, United States Code (iv) a Federal or State offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), or (v) an offense under State law determined by the United States Attorney General to be substantially similar to the offenses in (i) through (iii) above.

Section 4008 also imposes a new requirement that individuals applying for SNAP benefits must attest whether the applicant, or any other member of the household, was convicted of any of the listed Federal offenses or substantially similar State offenses. The provisions in section 4008 do not apply to convictions for conduct occurring on or before the date of enactment of the 2014 Farm Bill, February 7, 2014.

Section 4008 also provides that although those disqualified from receiving SNAP benefits under this provision are not SNAP-eligible members of the household, their income and resources are to be considered in determining the eligibility and value of the benefits for the rest of the household.

Disqualification

The Department is proposing to revise the regulations at section 273.11 by adding a new subsection (section 273.11(s)) to include the language contained in section 4008. The regulatory provision would essentially track the language in the statute, and would specify that the provision would not apply to convictions for conduct occurring on or before February 7, 2014. Fleeing felons and probation or parole violators covered in section 273.11(n) are also cited in proposed section 273.11(s) as ineligible for SNAP benefits.

The Department notes that before passage of the 2014 Farm Bill, section 6(k) of the Act, (reflected at section 273.11(n)), already prohibited certain fleeing felons and probation and parole violators from receiving SNAP benefits. The Department published a

proposed rule, Clarification of Eligibility of Fleeing Felons (76 FR 51907), on August 19, 2011, and the final rule (80 FR 54410) on September 10, 2015, to implement section 4112 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246, which required the Secretary of Agriculture to define the terms “fleeing” and “actively seeking.”

Section 4008 does not affect the existing prohibition that precludes fleeing felons and probation or parole violators from obtaining SNAP benefits under section 6(k) of the Act. The proposed § 273.11(s) would extend SNAP ineligibility to those individuals with convictions for Federal or State offenses as described in section 4008 who are also out of compliance with the terms of their sentence. The intent of the proposed subsection(s) is not to exclude individuals who have been convicted of such a crime but who have complied with the terms of their sentence, probation or parole.

This regulatory provision would apply to adults and to minors convicted as adults. It would not apply to minors who are under 18 unless they are convicted as adults. The Department understands that under Federal Law, juvenile offenses are penalized through “juvenile delinquencies” or “juvenile adjudications” rather than convictions and sentences, and that States have similar distinctions. Therefore, the Department believes that Congress did not intend to include such individuals in the prohibition.

Relatedly, section 273.2(j)(2)(vii) lists households that must never be considered categorically eligible for SNAP benefits. Section 273.2(j)(2)(vii)(D) already prohibits a

household from being categorically eligible if any member of the household is ineligible under § 273.11(m) by virtue of a conviction for a drug-related felony. In this rule, the Department proposes to revise section 273.2(j)(2)(vii)(D) to add convicted felons under section 273.11(s) and fleeing felons and probation or parole violators under section 273.11(n) to this subsection. This prohibition from categorical eligibility would apply to households containing individuals disqualified as a result of having certain convictions and not being in compliance with the sentence as provided in proposed section 273.11(s). It also would apply to households containing a fleeing felon or individual violating parole or probation, a prohibition which was inadvertently not captured in the Department's September 10, 2015 rule, Clarification of Eligibility of Fleeing Felons (80 FR 54410).

State agencies are reminded that Privacy Act restrictions and confidentiality provisions found at section 11(e)(8) of the Act remain intact for individuals who would be covered by this proposed rule. A request for information about a SNAP recipient or applicant by law enforcement officials must be made during the proper exercise of an official duty. Information about potential convicted felons covered by section 4008 of the 2014 Farm Bill whether it is alleged that they have been convicted for Federal or State crimes listed in section 4008 and are violating their sentences, or who are fleeing felons or parole or probation violators, must not be released to other persons such as bounty hunters, who are not official law enforcement representatives of a Federal or State entity.

State agencies would be required to establish clear and consistent standards for determining whether an individual is not in compliance with the terms of his or her

sentence. Those standards must not be arbitrary or capricious. Standards for determining whether someone is a fleeing felon or probation or parole violator are addressed in the final rule titled Clarification of Eligibility of Fleeing Felons (80 FR 54410) published on September 10, 2015.

Section 4008 gives the United States Attorney General the authority to determine what statutory crimes and sentences convictions are substantially similar under State law. The U.S. Department of Justice (DOJ) may establish guidelines for determining which State offenses are substantially similar to the Federal offenses listed in section 4008. More information on the matter is forthcoming, through either regulations or guidance from DOJ.

Attestation

Section 4008 also requires every person applying for SNAP benefits to attest whether the individual, or any member of the household of the individual, has been convicted for a crime covered by this section. The Department proposes to add the attestation requirement to the regulations at new paragraph section 273.2(o). In addition to the language contained in section 4008 regarding attestation, the Department also proposes to incorporate other specific standards and procedures for the attestation into the regulation. Although State agencies do have some discretion with the attestation requirement, basic standards will help ensure consistency across State agencies. Those standards are proposed as follows below.

Specifically, the individual applying for benefits would be responsible for attesting whether he or she, or any other household member, has been convicted as an adult of the crimes in section 4008. As part of that attestation, the Department would also require that the household attest as to whether any convicted member is complying with the terms of the sentence. The Department does not believe it is feasible for each individual member of the household to attest. If the SNAP household uses an authorized representative, the authorized representative would complete the attestation. State agencies would be required to update their application process to include the attestation requirement. It may be done in writing, verbally, or both, provided that the attestation is legally binding in the State. States could accomplish this by, for example, adding the attestation to the application for benefits, or by updating their interview process to include the attestation. The Department expects that the attestation would take place during the interview process, and anticipates that most attestations will be in writing. If an applicant is not present in person to hand in an application along with the attestation, the Department prefers that the State agency accept a written as opposed to verbal attestation and not require individuals to come into the office solely for the purpose of completing an attestation. To do otherwise could place an undue burden on the household and have a negative effect on program access. The attestation would be documented in the case file. Whatever procedure a State chooses to implement would need to be reasonable and consistent for all households applying for SNAP benefits, and would need to be part of certification and recertification procedures. The Department believes this discretion provides State agencies the flexibility to determine a standard that

best suits their needs and administrative structures, while still supporting uniformity and legal enforceability.

The State agency would be required to verify any attestation that no member of the household has been convicted as an adult of the crimes in this section if its veracity is questionable. The State agency would have the discretion to determine what makes an attestation questionable. In the event an attestation is questionable, the State agency would have to evaluate each case separately, using a reasonable standard established by the State to ensure consistency for all cases, and document the case file accordingly. At a minimum, the Department expects that State agencies would verify each element of the attestation – that the individual has been convicted of a crime listed in section 4008, and that the individual is not in compliance with the terms of their sentence.

The Department is also proposing that the State agency must verify when the household attests that there is a disqualified felon not in compliance with the sentence to avoid any unnecessary confusion on the part of the household. That is, if a SNAP applicant attests to being a convicted felon not in compliance with the sentence, or attests that another member of the household is a convicted felon not in compliance with the sentence, the State agency would be responsible for verifying the disqualified felon status of the individual. The Department believes the State agency is in a better position than applicants to understand the specific requirements of the attestation and to obtain appropriate verification. Also, an applicant who attests for other members of the household may not have all of the information or a clear understanding of the situation

involving that household member, and the State agency would be able to more reliably confirm felon status and whether the individual is complying with the sentence. The State agency would need to establish a reasonable standard to ensure consistency for all cases, and document the case file accordingly, in order to properly conduct this verification. The Department proposes to codify this requirement at section 273.2(f)(5)(i). The Department reminds State agencies that under section 273.2(f)(3) they have the option to implement mandatory verification where appropriate.

Section 4009: Lottery and Gambling Winners

Section 4009 of the Farm Bill directs the Department to institute new regulations regarding the receipt of substantial lottery or gambling winnings among SNAP households. It provides that any household that receives substantial lottery or gambling winnings, as determined by the Secretary, must lose eligibility for benefits immediately upon receipt of winnings. It also requires that those households remain ineligible until they again meet the allowable financial resources and income eligibility requirements of the Act. Section 4009 also requires the Secretary to set standards for each State agency to establish agreements, to the maximum extent practicable, with entities responsible for the regulation or sponsorship of gaming in the State to identify SNAP individuals with substantial winnings.

Disqualification for Substantial Lottery or Gambling Winnings

Section 4009 requires that households that have received substantial lottery or gambling winnings shall immediately lose eligibility for SNAP benefits, and gives the Secretary

authority to define what amount constitutes substantial winnings. In order to implement section 4009, the Department is proposing a new 7 CFR 273.11(r) to codify the disqualification and definition. Substantial lottery or gambling winnings would be defined as a cash prize won in a single game equal to or greater than \$25,000 before taxes or other amounts are withheld. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then only the portion of the winnings allocated to the member of the SNAP household would be counted toward the eligibility determination. Non-cash prizes are not included in the definition of substantial winnings.

FNS based its definition of substantial winnings on the amount that would cause a significant lifestyle change for a majority of SNAP households. Small amounts of winnings that would be quickly spent by a household for common expenses like paying down debt, making car repairs, saving for an apartment security deposit, or buying long put-off necessities would not meet the definition of substantial. One way to understand substantial winnings that would result in a significant lifestyle change is an amount that would push a household's income above the SNAP gross income limits for a household of three considered annually for a given fiscal year. Gross income limits for a household of three would be used to set the threshold because the average SNAP household size is between two and three.

In fiscal year 2017, the gross monthly income limit for a household of three is \$2,184. This value multiplied by 12 and rounded to the nearest five thousand equals \$25,000. FNS proposes rounding to the nearest \$5000 to allow for ease in administration and

communication with gaming entities and SNAP recipients. Every new fiscal year the threshold would be re-calculated using the new value for the gross monthly income limit for a household of three for that fiscal year rounded to the nearest five thousand dollars. FNS would provide the adjusted threshold amount to State agencies along with the SNAP income and resource limits each year. FNS asks for comments on this proposed definition of substantial winnings.

All households certified to receive SNAP benefits would be subject to this rule. If a member of a SNAP household wins a substantial amount, the entire SNAP household would lose eligibility for the program. Section 4009 requires that households disqualified by this provision shall remain ineligible for SNAP until that household meets the allowable financial resources and income eligibility requirements under subsections (c), (d), (e), (f), (g), (i), (k), (l), (m) and (n) of section 5 of the Act.

Cooperative Agreements

The Department proposes to add a new section 272.17 to codify the requirement in section 4009 by setting standards for States' establishment of cooperative agreements with entities responsible for the regulation or sponsorship of gaming in the State, in order to identify individuals with substantial winnings, as defined by this rule, within their State. Gaming entities would be those entities responsible for the regulation or

sponsorship of gaming in the State. Examples include, but are not limited to, State lotteries, casinos, race tracks that permit wagering, off-track betting facilities, State gambling oversight boards, and other entities that regulate gambling in public or private organizations in the State or on Tribal lands. Gaming entities that do not pay-out cash winnings equal to or greater than the substantial amount defined above would not be subject to this rule.

State agencies will not be required to establish cooperative agreements with gaming entities within their State if all gaming activities are deemed illegal by State and Federal law. However, if a State agency becomes aware of a member of a SNAP household receiving benefits within their State who wins substantial lottery or gambling winnings, as defined by this rule, either within or outside their State, then the State agency would be required to enforce this rule for that individual and the individual's household even if gambling is illegal in the State where the household is receiving benefits.

Gaming entities that enter into cooperative agreements with State agencies to identify SNAP recipients with substantial winnings would be responsible for meeting the terms of these agreements. The cooperative agreements would solely allow for the gaming entities to transmit information to State agencies; State agencies would be prohibited from sharing any information about SNAP households with gaming entities. Gaming entities would not be authorized to use data matches to receive or view information on SNAP households. In addition, section 4009 does not require gaming entities to withhold winnings of a substantial amount, as defined by this rule, from a winner. The Department

anticipates gaming entities would only share information with the State agency on individuals who win an amount equal to or greater than a substantial amount, as defined by this rule. The State agency would only use the information obtained through the data matches with gaming entities to identify individuals with substantial winnings, as defined by this rule.

The Department anticipates that a cooperative agreement established between the State agency and a gaming entity would specify that the gaming entity, either directly or through a third party, will share information about individuals with substantial winnings, as defined by this rule, over an agreed upon time period with the State agency. As contained in proposed section 273.17(b), at a minimum these agreements would need to specify the type of information to be shared by the gaming entity, the procedures used to share information, the frequency of sharing information, and the job titles of individuals who would have access to the data. Cooperative agreements should also include safeguards limiting release or disclosure of personally identifiable information to parties outside those included in the agreement.

Because the types of lottery and gambling activities allowed within a State, and the administration and oversight of these games, vary from State to State, State agencies would have discretion in determining which types of games and gaming entities will be subject to this rule; however, the Department expects State agencies to include as many gaming entities in their implementation of this rule as is practicable. State agencies should make a good faith effort to enter into cooperative agreements with entities within

their State responsible for the regulation or sponsorship of gaming. If a State agency and a gaming entity cannot come to an agreement after the State agency makes a good faith effort, then the State agency need not continue to pursue an agreement with that gaming entity at that time.

State agencies have some discretion to determine how often matches are made to identify winners. FNS expects State agencies to perform matches as frequently as is feasibly possible to identify SNAP recipients with substantial winnings, as defined in this rule. However, at a minimum, matches would be conducted when a recipient files a periodic report and at recertification. The Department proposes to codify this requirement at new section 272.17(d). States would be required to include in their State Plan of Operations the names of gaming entities with whom they have cooperative agreements, the frequency of data matches with these entities, and if the State considers information from the data matches verified upon receipt. The Department proposes to codify this requirement at new section 272.17(e).

Self-Reporting

SNAP recipients would be required to self-report substantial winnings, as defined in this rule, to the State agency administering the household's benefits within 10 days of collecting the winnings regardless of the State where the winnings were won, in accordance with the 10 day reporting timeframes outlined in section 273.12(a)(2). SNAP recipients would be required to report substantial winnings, as defined in this rule, from State lotteries and other gaming entities both in the State where they receive benefits and

in other States, as well as any substantial winnings from multi-state lotteries. If a State agency learns through self-reporting that a SNAP recipient received substantial winnings, as defined by this rule, the State agency must act immediately by closing the entire household's case. Before closing a household's case, the State agency may verify information about self-reported substantial winnings, as defined in this rule, if the information is questionable. The Department proposes to codify the reporting requirements surrounding this disqualification at new section 273.12(a)(1)(viii) and section 273.12(a)(5)(vi)(B)(5). The Department also proposes to add to section 273.12(a)(5)(iii)(E) the requirement that households report when a member of the household wins substantial lottery or gambling winnings in accordance with new section 273.11(r).

State agencies must inform SNAP households upon certification that, should any member of the household win substantial lottery or gambling winnings, as defined in this rule, they must contact the State agency within 10 days to reassess their eligibility for SNAP. Section 4009 only applies to eligibility determinations of enrolled SNAP households, not households who are applying to receive benefits. As a result it would not be necessary to include a question on the initial SNAP application asking applicants if anyone in the household has ever won substantial winnings. However, it is at the discretion of the State agency to determine whether to include a question on the SNAP periodic report or recertification forms asking if anyone in the recipient household has won substantial lottery or gambling winnings, as defined by this rule, since the time of the household's most recent certification. In making this decision States should consider the potential

increase in response burden for SNAP households relative to the number of households likely to report substantial winnings.

The Department notes that its rule, Supplemental Nutrition Assistance Program (SNAP): Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation and Energy Act of 2008, is currently in the process to be published as a final rule. That rule also references sections of section 273.12. Assuming that final rule is published by the time this rule is in the final rule process, the Department may be required to re-designate paragraph citations accordingly.

Verification of Data Matches

Data received through cooperative agreements with gaming entities may come from a wide variety of gaming entities (e.g. public or private entities; local, statewide or national entities) with varying degrees of reliability. Although verification of information about substantial winnings, as defined in this rule, is required, the Department will leave to State discretion whether information received through data matches will be considered verified upon receipt, and if not, how the State will verify that information. States should establish and apply consistent procedures for verifying substantial lottery and gambling winnings in accordance with sections 273.12(a)(5)(vi)(B) and § 273.2(f). The Department proposes to codify the requirement that the State agency verify information that a member of the household has won substantial lottery or gambling winnings in accordance with new sections 272.17(c) and 273.12(a)(5)(vi)(B).

If a State agency identifies a SNAP recipient who has received substantial winnings, as defined by this rule, before the recipient reports the collection of winnings, the State would need to verify that information, if it is not considered verified upon receipt.

Procedures established in new section 272.17(c) require that if a household is found to have received, during their certification period, substantial winnings, as defined in this rule, prior to any action to terminate the household's benefits, the State agency shall provide the household notice , in accordance with the provisions on notices of adverse action appearing in section 273.13. For households that are found to have received substantial winnings at the time of their case's recertification, the State agency shall provide these households with a notice of denial, in accordance with section 273.10(g)(2). The State agency shall also establish claims as appropriate.

The Department recognizes that some States will consider information received through data matches verified upon receipt, whereas other States will need to pursue verification regardless of how the State has chosen to act on changes. Upon receipt of a positive data match, all States would need to take immediate action to either to pursue verification, as needed, and close the case , if appropriate, regardless of whether the State has chosen to act on all changes or to act only on certain changes.

Eligibility for Previously Disqualified SNAP Households

Section 4009 does not require SNAP applicants to be screened for eligibility based on past lottery or gambling winnings. The only exception would be applicant households

containing a member who was previously disqualified for substantial winnings, as defined by this rule, since section 4009 requires that such households remain ineligible until they meet the income and eligibility requirements in the Act detailed in sections 273.8 and 273.9.. The eligibility determinations for these households at the time of re-application would need to be based on the requirements in sections 273.8 and 273.9. To identify members of applicant households previously disqualified for substantial winnings, as defined in this rule, SNAP eligibility workers could conduct a search of past case records or question the household during the interview. The Department feels that including a question on the SNAP application about past disqualification for substantial winnings, as defined in this rule, will unnecessarily burden the vast majority of SNAP applicants not subject to this rule. Other methods, such as those noted above, may be more effective in obtaining the necessary information without adding burden to all SNAP applicants.

Section 4015: Mandating Certain Verification Systems

Section 4015 of the 2014 Farm Bill amends section 11(p) of the Act by providing that a State agency must use an immigration status verification system established under section 1137 of the Social Security Act (SSA) and an income and eligibility verification system. Before the 2014 Farm Bill, use of these verification systems was optional. In particular, section 11(p) of the Act previously provided that State agencies were not required to use an income and eligibility or immigration status verification system established under section 1137 of the SSA.

Immigration Status Verification System

The Department proposes to amend the regulations at 7 CFR 273.2(f)(1)(ii) to largely reflect the statutory language in section 4015 by requiring States to use an immigration status verification system established under section 1137 of the SSA (42 U.S.C. 1320b-7) when verifying immigration status of SNAP applicants.

Section 1137(d)(3) of the SSA (42 U.S.C. 1320b-7(d)(3)) requires verification of immigration status “through an automated or other system” designated by the Immigration and Naturalization Service (INS) for use by the States. INS ceased to exist as a result of the Homeland Security Act of 2002, P.L. 107-296, on March 1, 2003, and its functions were transferred from the Department of Justice to the newly-created Department of Homeland Security (DHS). Three agencies were established within DHS – including the U.S. Citizenship and Immigration Services (USCIS).

USCIS administers the Systematic Alien Verification for Entitlements (SAVE) Program to help Federal, State and local agencies authorized to use the service to verify the immigration status of public benefits applicants. SAVE is an inter-governmental web-based service that provides timely immigration status information, thereby allowing those user agencies to ensure that they are issuing public benefits only to individuals entitled to receive them.

USCIS has confirmed with the Department that there are only two ways a SNAP State agency can verify immigration status with USCIS. Both ways are through the SAVE

system – either through an electronic search or a manual G-845 paper form search (there is also a G-845 Supplement form if the State agency would like to request more detailed information on immigration status, citizenship and sponsorship). USCIS offers no other options for a SNAP State agency to verify immigration status, and either method would satisfy the immigration verification requirements of section 4015. Typically, the manual search is available after an initial electronic search if additional verification is needed. Whether using the electronic search or manual G-845 forms search, the State agency must sign a memorandum of agreement with USCIS to conduct the verification.

Current SNAP regulations at section 273.2(f)(1)(ii) require that States verify the immigration status of non-citizens who apply for SNAP, but do not mandate the use of SAVE to do so. As Section 4015 now mandates that all States use an immigration status verification system established under Section 1137 of the SSA, in effect, it now requires the use of SAVE to verify immigration status. Therefore, the Department is proposing to revise references to SAVE throughout §§ 272 and 273 to reflect this new mandatory requirement.

Since SAVE is administered by another Federal agency that could change the name or other details of the service, the Department proposes to revise section 273.2(f)(1)(ii) to reflect the broader language of section 4015 in the event USCIS makes any changes to that system. Provisions regarding the optional use of SAVE to verify the validity of documents are available at sections 272.11(a) and 273.2(f)(10) and are proposed to be updated only to reflect the new mandatory requirement that the system be one established

under section 1137 of the SSA. Other provisions contained at section 272.11 involve necessary logistical steps for the use of SAVE, such as establishing agreements with INS (now USCIS), and administrative requirements such as use of the data, and are unaffected by this proposed rule. Similarly, other requirements at section 273.2(f)(10), regarding procedures in verifying the validity of documents provided by alien applicants, are unaffected by this proposed rule.

All 53 State agencies (including the District of Columbia, Guam and the Virgin Islands) have indicated to FNS that they currently use the SAVE database, so the Department does not believe the requirement will have a big impact on most States. Because SAVE is the system used by USCIS for immigration status verification, State SNAP agencies' use of SAVE would satisfy the immigration verification requirement in section 4015. Ensuring that all States use an immigration status verification system established under section 1137 of the SSA helps ensure State agencies follow consistent standards in verifying immigration status. The Department may require the State agency to provide written confirmation from USCIS that the system used by the State is an immigration status verification system established under section 1137 of the SSA.

Although section 4015 does not specifically require State agencies to use the electronic SAVE search, USCIS has indicated its preference for the electronic search over the paper-based G-845 SAVE search. This is because the electronic SAVE search is faster and more efficient. The Department also understands that an electronic SAVE search is more cost effective per search than the paper-based process. For these reasons, the

Department encourages State agencies to use an electronic before a manual SAVE search.

As a related matter, the Department is taking this opportunity to propose an update of the terminology used in the current regulations for the Federal agency that handles immigration status issues. Current SNAP regulations refer to the Department of Justice (DOJ) Immigration and Naturalization Service (INS) as the entity responsible for fulfilling Federal immigration functions. As previously noted, INS no longer exists and USCIS now oversees lawful immigration to the United States and naturalization of new American citizens, including the management of SAVE. The Department proposes to update references from INS to USCIS throughout sections 271, 272 and 273 accordingly.

To further clarify existing requirements, this proposed rule would more explicitly include in the regulatory text the requirement that State agencies must verify the immigration status of all non-citizens applying for SNAP benefits. Although an applicant must provide documentation of his or her status when applying for benefits, such as a green card, doing so does not negate the State agency's responsibility to verify that status with DHS. This is essential because SNAP eligibility workers do not have the expertise to confirm the validity of those documents. Such confirmation must come from the Federal agency charged with overseeing immigration status issues – DHS' USCIS. This clarification is proposed at sections 273.2(f)(1)(ii) and (f)(10).

Finally, the Department reminds commenters that section 5(i) of the Act and section 273.4(c)(4) of the regulations require that the income and resources of sponsors be deemed to sponsored non-citizens when they apply for SNAP (with exceptions for particular vulnerable populations as listed at section 273.4(c)(3)). Sponsored non-citizens applying for SNAP are required to provide information and documentation about their sponsor's income and resources. The Department understands that SAVE search results provide information on whether or not a non-citizen has a sponsor. The Department proposes to add section 273.2(f)(10)(vi) to allow State agencies to use SAVE to confirm whether an affidavit of support has been executed in accordance with the deeming requirements at section 273.4(c)(2). Since the electronic or manual SAVE searches provide information on whether an individual has an executed affidavit of support (USCIS Form I-864 or I-864A), and sponsor deeming is required, State agencies may use that information as a means to check whether an applicant has a sponsor.

Income and Eligibility Verification System (IEVS)

Section 4015 also requires States to use an income and eligibility verification system established under Section 1137 of the SSA in accordance with standards set by the Secretary. Standards for IEVS already exist at section 272.8(a)(1), section 273.2(b)(2) and section 273.2(f)(9). Except for updating these provisions to remove the optional use of IEVS, the Department proposes to maintain current requirements without change. States would need to maintain a system that ensures compliance with the applicant verification standards in section 273.2(f). Those standards contain procedures on, for

example, items requiring mandatory verification and verification when questionable, describes sources of verification, among other standards.

Procedural Matters

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget, therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it

has been certified that this rule would not have a significant impact on a substantial number of small entities. While there may be some burden/impact on State agencies and small entities involved in the gaming industries, the impact is not significant as the burden would be on State agencies to ensure appropriate cooperative agreements are entered into.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and Tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local or Tribal governments, in the aggregate, or the private sector, of \$146 million or more (when adjusted for inflation; GDP deflator source: Table 1.1.9 at <http://www.bea.gov/iTable>) in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments or the private sector of \$146 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SNAP is listed in the Catalog of Federal Domestic Assistance Programs under 10.551. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related Notice (48 FR 29115, June 24, 1983), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13121. The Department has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. Therefore, under section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any

judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this proposed rule in accordance with USDA Regulation 4300-4, “Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. After a careful review of the rule’s intent and provisions, FNS has determined that the changes to SNAP regulations in this proposed rule are driven by legislation and therefore required. The Department specifically prohibits the State and local government agencies that administer the program from engaging in discriminatory actions.

Discrimination in any aspect of program administration is prohibited by SNAP regulations, the Food and Nutrition Act of 2008, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and Title VI of the Civil Rights Act of 1964. Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with these requirements and the regulations at 7 CFR 272.6.

Student Provision: This provision implements the provision requiring that the exception provided to participants of a SNAP E&T program is limited to those who are enrolled in a course or program of study that is part of a program of career and technical education (as defined in Section 3 of the Carl D. Perkins Career and Technical Education Act of 2006) that may be completed in not more than 4 years at an institution of higher

education (as defined in section 102 of the Higher Education Act of 1965), or enrolled in courses for remedial education, basic adult education, literacy, or English as a second language.

Impact on Households: This mandatory change will be applied uniformly across households. Classification in an E&T program is not based on status in a protected class.

Impact on State Agencies: Thirty-four States offer education components through their E&T programs in FY 2015. These States will need to evaluate whether those components meet the student eligibility criteria proposed in this rule. Impacts are expected to be minimal.

Felon Disqualification: This provision disqualifies individuals who are convicted of certain crimes who are also not in compliance with the terms of their sentence or fleeing felons from receiving SNAP benefits, and requires individuals convicted of those crimes to attest to same.

Impact on Households: The household will be responsible for honestly representing whether any household member has been convicted of the stated crimes. This change is also mandatory and will impact all houses uniformly regardless of status in a protected class. The Department does not have any information that individuals in a protected class are more likely to violate the terms of their sentence or probation or parole. The Department therefore does not anticipate a greater impact on any protected class.

Impact on State agencies: State agencies will be required to update their application processes to obtain the attestation and document same in the case file. State agencies will also be responsible for verifying that those individuals are disqualified felons.

Lottery and Gambling Winnings Disqualification: This provision disqualifies individuals who receive substantial lottery or gambling winnings from receiving SNAP benefits.

Impact on Households: This provision is intended to make households that receive a substantial amount of gambling or lottery winnings ineligible for SNAP. All SNAP households will be subject to this provision equally, whereby if a SNAP household receives substantial winnings they will be made ineligible for benefits until they again meet normal program income and resource requirements.

Impact on State agencies: State agencies are required to implement a data matching system with entities within the state that are involved in lotteries and gaming. As such, this rule will have an impact on those entities involved in cooperative agreements with the State agencies.

Income and Eligibility and Immigration Verification Systems: This provision requires States to have an income and eligibility and immigration verification system.

Impact on Households: This provision will not impact households directly. The Department anticipates that the only potential impact on households will be a benefit in that non-citizens applying for SNAP benefits will have their immigration status verified through more consistent methods across States.

Impact on State agencies: States were required to implement the immigration verification system immediately upon implementation of the 2014 Farm Bill. The vast majority of States already had a system in place that adheres to these requirements. Many States already have an income and eligibility verification in place already as well. For those reasons, the Department does not anticipate that this provision will result in a significant impact on State agencies.

Training and Outreach: SNAP is administered by State agencies which communicate program information and program rules based on Federal law and regulations to those within their jurisdiction, including individuals from protected classes that may be affected by program changes. After the passage of the 2014 Farm Bill, the Department worked with State agencies to ensure their understanding of the changes required by these provisions. The Department released an implementation memorandum on these provisions on March 21, 2014. The Department also shared guidance through a Question & Answer memorandum on June 10, 2014, to address the State agencies' questions and concerns and ensure clarity on requirements for implementing the requirement.

The Department participated in a May 21, 2014, Tribal Consultation on the lottery provision, during which the Department received no significant feedback or questions.

The Department maintains a public website that provides basic information on each program, including SNAP. Interested persons, including potential applicants, applicants, and participants can find information about these changes as well as State agency contact information, downloadable applications, and links to State agency websites and online applications.

Finding and Conclusion: After careful review of the rule's intent and provisions, and the characteristics of SNAP households and individual participants, the Department has determined that this proposed rule will not have a disparate impact on any group or class of persons.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The Department participated in a Tribal Consultation on the Lottery provisions of this rule. Tribal organizations with gaming facilities may be approached by the State(s) in which

they are located to participate in the cooperative agreements to identify individuals with significant lottery or gambling winnings. The Department also notes that the regulatory changes proposed in this rule regarding students enrolled more than half-time and certain convicted felons will not have a greater substantial direct effect on tribal organizations than all other applicants applying for SNAP. We are unaware of any current Tribal laws that could be in conflict with the final rule.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule proposes information collections that are subject to review and approval by the Office of Management and Budget; therefore, FNS is submitting for public comment the changes in the information collection burden that would result from adoption of the proposals in the rule. In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection.

This is a new collection for proposed rule, Lottery and Gambling Winners in the Supplemental Nutrition Assistance Program, which would require States to make ineligible SNAP participants with substantial lottery or gambling winnings and establish cooperative agreements with gaming entities within their States to identify SNAP

participants with substantial winnings. The provisions regarding students, felon disqualification and State eligibility verification systems in this proposed rule do not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1994.

State agencies will be required to make minimal, one-time changes to their application process in order to comply with the provisions of the felon disqualification attestation requirement. Since State agencies are already required to verify the immigration status of non-citizens applying for the program, the impact of this provision is negligible. Other minimal burdens imposed on State agencies by this proposed rule are usual and customary within the course of their normal business activities. These changes are contingent upon OMB approval under the Paperwork Reduction Act of 1995. When the information collection requirements have been approved, FNS will publish a separate action in the Federal Register announcing OMB's approval.

Comments on this information collection pursuant this proposed rule must be received on or before [Insert date that is 60 days from publication in the FEDERAL REGISTER].

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the

collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Mary Rose Conroy, Food and Nutrition Service, U.S.

Department of Agriculture, 3101 Park Center Drive, Room 810, Alexandria, VA 22302.

Comments may also be submitted via fax to the attention of Mary Rose Conroy at 703-305-2803 or via email to maryrose.conroy@fns.usda.gov. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

Title: Supplemental Nutrition Assistance Program: Student Eligibility, Convicted Felons, Lottery and Gambling, and State Verification Provisions of the Agricultural Act of 2014

OMB Number: 0584-NEW

Expiration Date: [Not Yet Determined.]

Type of Request: New collection

Abstract: This proposed rule is intended to implement several section of the Agricultural Act of 2014 including section 4009 (Ending Supplemental Nutrition Assistance Program Benefits for Lottery or Gambling Winners). This provision makes households in which a members receives substantial lottery and gambling winnings (as determined by the

Secretary) ineligible for SNAP until they meet allowable financial resources and income eligibility requirements. The provision also requires States to establish cooperative agreements, to the maximum extent practicable, with entities responsible for gaming in their State in order to identify individuals with substantial winnings.

This rule does not require any recordkeeping burden. Reporting detail burden information is provided below.

Estimates of the Hour Burden of the Reporting of Information:

First Year Burden Hours

The affected public for this collection is 53 State SNAP agencies, 53 State public agency gaming entities, and 159 private business gaming entities. It is estimated that each of the 53 State SNAP agencies will establish cooperative agreements once with one State public agency gaming entity within the State and 3 private business gaming entities within the State for a total of 212 annual responses which will take approximately 320 hours per response for a total of 67,840 annual burden hours. This one time activity includes time for the State SNAP agency to reach out to the State public agency gaming entities and private business gaming entities in the State, negotiate terms for sharing identifying information of winners, establish secure connections for sharing information, and to complete all necessary reviews of agreements by legal counsel and State leadership. Each of the 53 State public agency gaming entities will also incur a burden entering into cooperative agreements with their State SNAP agency, which will take approximately 320 hours per response for a total of 16,960 burden hours. This one time activity includes time for the State public agency gaming entity to negotiate terms for sharing

identifying information of winners, establish secure connections for sharing information, and to complete all necessary reviews of agreements by legal counsel and State public agency gaming entity leadership. It is estimated that each of 159 affected private business gaming entities will establish cooperative agreements once with their respective State SNAP agency, which will take approximately 320 hours per response for a total of 50,880 annual burden hours. Our estimate assumes all 53 State SNAP agencies receiving SNAP funding will implement this rule despite large variations in gaming activities from State to State.

It is estimated that each of the 53 State SNAP agencies will create a data matching system once to match information on winners from State public agency gaming entities and private business gaming entities within the State with SNAP participation lists, which will take approximately 160 hours per response for a total of 8,480 annual burden hours. All State SNAP agencies currently make use of other computerized data matching systems (e.g. SAVE for immigration verification), so costs assume States will re-program existing systems.

Ongoing Yearly Costs

Once the matching system is in place, for every year thereafter, the State public agency and private business gaming entities will have to enter information into the system for every individual who wins over the threshold for winnings. There is no national database of how many people win large amounts of money in State lotteries or through other gaming activities. For this estimate, it is assumed that each of the 53 State public agency

gaming entities would have 200 individuals who win over the threshold in a given year for a total of 10,600 annual responses. It will take approximately 0.08 hours for the State public agency gaming entity to identify the winner and enter the appropriate information into the matching system for a total of 848 annual burden hours per year. In addition, it is estimated that each of the 159 private business gaming entities will identify 100 individuals per year who have won over the threshold for a total of 15,900 annual responses. It will take approximately 0.08 hours for the private business gaming agency to identify the winner and enter the appropriate information into the matching system for a total of 1,272 annual burden hours per year.

Once the matching system is in place, for every year thereafter, the matches between the winner list and SNAP participation list should occur automatically and with negligible cost. For this estimate, it is assumed that each of the 53 State SNAP agencies will positively match with the one State public agency and three private business gaming entities in their respective States an average of 35 records per year for a total annual response of approximately 1,855 SNAP participants nationally. Each of 53 State SNAP agencies will have to identify among the responses above those that are misidentified as SNAP participants because of a similar name, inaccurate reporting etc. FNS anticipates that each of the 53 State SNAP agencies will receive approximately 5 total annual records with misidentified participants for a total annual response of 265 records. It will take approximately 0.667 hours to identify these types of misidentifications for a total annual burden of 176.76 burden hours. Additionally, each of the 53 State SNAP agencies will have to follow-up with and disqualify SNAP participants discovered through the above

matches to have actual substantial lottery or gambling winnings. FNS anticipates approximately 30 records annually per State SNAP agency will be households with actual substantial winnings and it will take approximately 1 hour of the State SNAP agency's time for this activity for a total of approximately 1590 annual burden hours.

Lottery or gambling winners who lose eligibility for SNAP will need to be re-evaluated according to normal program rules if they again decide to apply for SNAP benefits. In order to identify applicants who were previously disqualified due to substantial winnings, eligibility workers may conduct a routine search of past enrollment files at the time of application. In most cases, eligibility workers are already doing this search to identify other relevant information for the current household application, and as a result the cost is negligible.

There is no recordkeeping burden required for this information collection request.

Reg. Section	Respondent Type	Description of Activity	Estimated Number of Respondents	Annual Report or Record Filed	Total Annual Responses	Number of Burden Hours Per Response	Estimated Total Burden Hours	Hourly Wage Rate*	Estimate Cost to Respondents
7 CFR 272.17	State SNAP Agency Managers	**Establish cooperative agreements with State public agency and private business gaming entities	53	4	212	320	67,840	\$45.64	\$3,096,217.60

7 CFR 272.17	State Public Agency Gaming Entity Managers	**Establish cooperative agreements with State SNAP agency	53	1	53	320	16,960	\$45.64	\$774,054.40
7 CFR 272.17	State SNAP Agency Managers	**Create a data matching system with State public agency and private business gaming entities	53	1	53	160	8,480	\$45.64	\$387,027.20
272.17 and 273.11(r)	State SNAP Agency Eligibility Worker	Eligibility worker follow-up - misidentified winners	53	5	265	0.667	176.76	\$20.41	\$3,607.57
7 CFR 272.17 and 7 CFR 273.11(r)	State SNAP Agency Eligibility Worker	Eligibility worker follow-up - true winners	53	30	1590	1	1590	\$20.41	\$32,451.90
7 CFR 272.17	State Public Agency Gaming Entity Staff Member	Input data into data matching system for use by State SNAP agency	53	200	10,600	0.08	848	\$18.46	\$15,654.08
State Agency Subtotal Reporting			53	241	12,773	-	95,894.76	-	\$4,309,012.60
7 CFR 272.17	Private Business Gaming Entity Managers	**Establish cooperative agreements with State SNAP agency	159	1	159	320	50,880	\$71.79	\$3,652,675.20
7 CFR 272.17	Private Business Gaming Entity Staff Member	Input data into data matching system for use by State SNAP agency	159	100	15,900	0.08	1272	\$13.25	\$16,854
Business Subtotal Reporting			159	101	16,059	-	52,152	-	\$3,669,529.20
States and Business Reporting Grand Total Burden Estimates			212		28,832		148,046.76	-	7,978,541.80

*Based on the Bureau of Labor Statistics May 2014 Occupational and Wage Statistics. The salaries of State SNAP agency managers and public gaming entity managers are considered to be “General and Operations Managers, Local Government (11-1021).” The salaries of private gaming entity managers are considered to be “General and Operations Managers, Management in Companies and Enterprises (11-1021).” The salaries of private gaming entity managers are considered to be “Gaming Managers (11-9071).” The salaries of the eligibility workers are considered to be “Eligibility Interviewers, Government Programs (43-4061).” The salaries of public gaming entity staff member are considered to be “Information and Record Clerks, All Other (43-4199).” The salaries of private gaming entity staff member are considered to be “Gaming Cage Workers (43-3041).” (<http://www.bls.gov/oes/home.htm>)

** These are only first year costs and are not expected to re-occur annually.

Description of Costs and Assumptions

The estimate of respondent cost is based on the burden estimates and utilizes the Department of Labor, Bureau of Labor Statistic, May 2015 National Occupational and Wage Statistics, Occupational Groups (11-1021), (11-9071), (43-4061), (43-4199), and (43-3041).

The total annual cost to respondents is \$7,978,541.80. This includes \$3,669,529.20 for Business and \$4,309,012.60 for State Agencies. It is estimated that State SNAP agency managers in the General and Operations Managers for Local Government occupation group (11-1021) in the 53 State SNAP agencies will spend a total of 67,840 hours to establish cooperative agreements with State public agency and private business gaming entities at a rate of \$45.64 per hour for a total estimated cost of \$3,096,217.60 for all respondents in the first year.

It is estimated that State public agency gaming entity managers in the General and Operations Managers for Local Government occupation group (11-1021) in the 53 State SNAP agencies will spend a total of 16,960 hours to establish cooperative agreements with State SNAP agencies at a rate of \$45.64 per hour for a total estimated cost of \$774,054.40 for all respondents in the first year.

It is estimated that State SNAP agency managers in the General and Operations Managers for Local Government occupation group (11-1021) in the 53 State SNAP agencies will

spend a total of 8480 hours to establish data matching systems with State public agency and private business gaming entities at a rate of \$45.64 per hour for a total estimated cost of \$387,027.20 for all respondents in the first year.

It is estimated that State SNAP agency eligibility workers in the Eligibility, Interviews, Government Programs occupation group (43-4061) in the 53 State SNAP agencies will spend a total of 176.76 hours to review matches for misidentified winners at a rate of \$20.41 per hour for a total estimated cost of \$3,607.57 for all respondents annually.

It is estimated that State SNAP agency eligibility workers in the Eligibility, Interviews, Government Programs occupation group (43-4061) in the 53 State SNAP agencies will spend a total of 1590 hours to follow-up with and disqualify correctly matched winners at a rate of \$20.41 per hour for a total estimated cost of \$32,451.90 for all respondents annually.

It is estimated that State public agency gaming entity staff in the Information and Record Clerks, All Other occupation group (43-4199) in the 53 State public agency gaming entities will spend a total of 848 hours to enter appropriate information into the data matching system with the State SNAP agency at a rate of \$18.46 per hour for a total estimated cost of \$15,654.08 for all respondents annually.

It is estimated that private gaming entity managers in the General and Operations Managers, Management in Companies and Enterprises occupation group (11-1021) in the

159 private business gaming entities will spend a total of 50,880 hours to establish cooperative agreements with State SNAP agencies at a rate of \$71.79 per hour for a total estimated cost of \$3,652,675.20 for all respondents in the first year.

It is estimated that private business gaming entity staff in the Gaming Cage Workers occupation group (43-3041) in the 159 private business gaming entities will spend a total of 1272 hours to enter appropriate information into the data matching system with the State SNAP agency at a rate of \$13.25 per hour for a total estimated cost of \$16,854 for all respondents annually.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 271

Food stamps, Grant programs--social programs, Reporting and recordkeeping requirements.

7 CFR Part 272

Alaska, Civil rights, Supplemental Nutrition Assistance Program, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Supplemental Nutrition Assistance Program, Fraud, Grant Programs—social programs, Penalties, Reporting and recordkeeping requirements, Social Security, Students.

For the reasons set forth in the preamble, 7 CFR parts 271, 272 and 273 are proposed to be amended as follows:

1. The authority citation for Parts 271, 272 and 273 continue to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 271 – GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2:

- a. In the definition for Alien Status Verification Index (ASVI), remove the words “Immigration and Naturalization Service” and add in its place the words “United States Citizenship and Immigration Services (USCIS)”.
- b. Remove the definition for “Immigration and Naturalization Service (INS).”
- c. Add a definition for “United States Citizenship and Immigration Services (USCIS)”.

The addition to read as follows:

§ 271.2 Definitions.

* * * * *

United States Citizenship and Immigration Services (USCIS) means the U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security.”

* * * * *

PART 272 – REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.11 (b) and (d), remove the word “INS” and add in its place the word “USCIS”.

4. Revise the first sentence of § 272.8(a)(1), to read as follows:

§ 272.8 State income and eligibility verification system.

(a) * * *

(1) State agencies shall maintain and use an income and eligibility verification system (IEVS), as specified in this section. * * *

* * * * *

5. Revise § 272.11(a) to read as follows:

§ 272.11 Systematic Alien Verification for Entitlements (SAVE) Program.

(a) General. A State agency shall use an immigration status verification system established under Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) to verify the eligible status of all aliens applying for SNAP benefits. USCIS maintains the Systematic Alien Verification for Entitlements (SAVE) Program to conduct such verification.

* * * * *

6. Add § 272.17, to read as follows:

§272.17 – Data matching for substantial lottery or gambling winnings.

(a) General. Each State agency, to the maximum extent practicable, shall establish cooperative agreements with gaming entities within their State to identify members of

certified households who have won substantial lottery or gambling winnings as defined in § 273.11(r).

(b) Cooperative Agreements. State agencies, to the maximum extent practicable, shall enter into cooperative agreements with the gaming entities responsible for the regulation or sponsorship of gaming in the State. Cooperative agreements should specify the type of information to be shared by the gaming entity, the procedures used to share information, the frequency of sharing information, and the job titles of individuals who will have access to the data. Cooperative agreements shall also include safeguards limiting release or disclosure of personally identifiable information of SNAP recipients who are the subject of data matches.

(c) Use of match data. States shall provide a system for:

- (1) Comparing information obtained from gaming entities about individuals with substantial winnings with databases of currently certified households within the State;
- (2) The reporting of instances where there is a match;
- (3) If match information is not considered verified upon receipt, the verification of matches to determine their accuracy in accordance with § 273.2(f);
- (4) If during a household's certification period, the household is found to have received substantial winnings, as defined in § 273.11(r), prior to any action to terminate the household's benefits, the State agency shall provide the household notice in accordance with the provisions on notices of adverse action appearing in § 273.13. For households that are found to have received substantial winnings at the time of the household's recertification, the State agency shall notify such households, in accordance with the provisions on notices of denial appearing in § 273.10(g)(2); and

(5) The establishment and collection of claims as appropriate.

(d) Frequency of data matches. The State agency shall perform data matches as frequently as is feasibly possible to identify SNAP recipients with substantial winnings, as defined in § 273.11(r); however, at a minimum the State agency shall conduct data matches when a household files a periodic report and at the time of the household's recertification.

(e) State Plan of Operations. The State agency shall include as an attachment to the annual State Plan of Operations, as required in accordance with § 272.2, the names of gaming entities with which the State agency has entered into cooperative agreements, the frequency of data matches with such entities, and if information is considered verified upon receipt.

PART 273 – CERTIFICATION OF ELIGIBLE HOUSEHOLDS

7. In Part 273, remove the word “INS” wherever it appears and add in its place “USCIS”.

8. In § 273.2:

- a. Revise the first sentence of paragraph (b)(2);
- b. Revise the first sentence of paragraph (f)(1)(ii)(A) and add new second sentence;
- c. Amend paragraph (f)(5)(i) by adding a sentence at the end of paragraph;
- d. Amend paragraph (f)(9) by revising the paragraph heading and paragraphs (i) and (ii);
- e. Revise the paragraph heading and introductory text of (f)(10);
- f. Add paragraph (f)(10)(vi);
- g. Revise § 273.2(j)(2)(vii)(D);
- h. Add new paragraph (o).

The revisions and additions to read as follows:

§ 273.2 – Office operations and application processing.

* * * * *

(b) * * *

(2) * * * In using IEVS in accordance with paragraph (f)(9) of this section, it must notify all applicants for food stamp benefits at the time of application and at each recertification through a written statement on or provided with the application form that information available through IEVS will be requested, used and may be verified through collateral contact when discrepancies are found by the State agency, and that such information may affect the household's eligibility and level of benefits. * * *

* * * * *

(f) * * *

(1) * * *

(ii) * * *

(A) The State agency shall verify the eligible status of all aliens applying for SNAP benefits by using an immigration status verification system established under Section 1137 of the Social Security Act (42 U.S.C. 1320b-7). FNS may require State agencies to provide written confirmation from USCIS that the system used by the State is an immigration status verification system established under Section 1137 of the Social Security Act. * * *

* * * * *

(5) * * *

(i) * * * However, if a SNAP applicant's attestation regarding disqualified felon status described in § 273.2(o) is questionable, the State agency shall verify the attestation. The State agency shall verify the felon status when an applicant affirmatively attests that he or she or a member of their household is such a convicted felon and is not in compliance with the sentence. Each element of an affirmative attestation – that the individual has been convicted of a crime listed at § 273.11(s), and that the individual is not in compliance with the terms of their sentence – shall be verified. In conducting verifications of both questionable attestations and affirmative attestations under this paragraph the State agency shall establish reasonable, consistent standards, evaluate each case separately, and document the case file accordingly.

* * * * *

(9) Mandatory use of IEVS. (i) The State agency must obtain information through IEVS in accordance with procedures specified in § 272.8 of this chapter and use it to verify the eligibility and benefit levels of applicants and participating households.

(ii) The State agency must access data through the IEVS in accordance with the disclosure safeguards and data exchange agreements required by part 272.

* * * * *

(10) Use of SAVE. Households are required to submit documentation for each alien applying for SNAP benefits in order for the State agency to verify their immigration statuses. State agencies shall verify the validity of such documents through an immigration status verification system established under Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) in accordance with § 272.11 of this chapter. USCIS

maintains the SAVE system to conduct this verification. When using SAVE to verify immigration status, State agencies shall use the following procedures:

* * * * *

(vi) State agencies may use information contained in SAVE search results to confirm whether a non-citizen has a sponsor who has signed a legally binding affidavit of support when evaluating the non-citizen's application for SNAP benefits in accordance with the deeming requirements described in § 273.4(c)(2).

* * * * *

(j) * * *

(2) * * *

(vii) * * *

(D) Any member of that household is ineligible under § 273.11(m) by virtue of a conviction for a drug-related felony, under § 273.11(n) for being a fleeing felon or a probation or parole violator, or under § 273.11(s) for having a conviction for certain crimes and not being in compliance with the sentence.

* * * * *

(o) Each State agency shall require the individual applying for SNAP benefits to attest to whether the individual or any other member of the household has been convicted of a crime as an adult as described in § 273.11(s) and whether any convicted member is complying with the terms of the sentence.

(1) The State agency shall update its application process, including certification and recertification procedures, to include the attestation requirement. It may be done in writing, verbally, or both, provided that the attestation is legally binding in the law of the

State. Whatever procedure a State chooses to implement must be reasonable and consistent for all households applying for SNAP benefits.

(2) The State agency shall document this attestation in the case file.

(3) The State agency shall establish standards for determining what makes an attestation under this subsection questionable and for verifying a questionable attestation as described in § 273.2(f)(2).

9. Revise § 273.5(b)(11)(ii), to read as follows:

§ 273.5 Students.

* * * * *

(b) * * *

(11) * * *

(ii) An employment and training program under § 273.7, subject to the condition that the course or program of study, as determined by the State agency:

(A) is part of a program of career and technical education (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302) designed to be completed in not more than 4 years at an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 2296)); or

(B) is limited to remedial courses, basic adult education, literacy, or English as a second language.

* * * * *

10. Revise § 273.7(e)(1)(vi) to read as follows:

§ 273.7 Work provisions.

* * * * *

(e) * * *

(1) * * *

(vi) Educational programs or activities to improve basic skills or otherwise improve employability including educational programs or activities determined by the State agency to expand the job search abilities or employability of those subject to the program.

(A) Allowable educational programs or activities may include, but are not limited to, courses or programs of study that are part of a program of career and technical education (as defined in section 3 of the Carl D. Perkins Act of 2006), high school or equivalent educational programs, remedial education programs to achieve a basic literacy level, and instructional programs in English as a second language.

(B) Only educational programs or activities that enhance the employability of the participants are allowable. A link between the education and job-readiness must be established for a component to be approved.

* * * * *

11. In § 273.11:

- a. Amend paragraph (c)(1) introductory text by revising the sentence after the paragraph heading; and
- b. Add paragraphs(r) and (s)

The revisions and additions to read as follows:

§ 273.11 – Action on households with special circumstances.

* * * * *

(c) * * *

(1) * * * The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible because of a disqualification for an intentional Program violation, a felony drug conviction, their fleeing felon status, noncompliance with a work requirement of § 273.7, imposition of a sanction while they were participating in a household disqualified because of failure to comply with workfare requirements, or certain convicted felons as provided at § 273.11(s) shall be determined as follows:

* * * * *

(r) Disqualification for Substantial Lottery or Gambling Winnings. Any household certified to receive benefits shall lose eligibility for benefits immediately upon receipt by any individual in the household of substantial lottery or gambling winnings, as defined in paragraph (r)(2) of this section. The household shall report the receipt of substantial winnings to the State agency in accordance with the reporting requirements contained in § 273.12(a)(5)(iii)(E)(3) and within the time-frame described in § 273.12(a)(2). The State agency shall also take action to disqualify any household identified as including a member with substantial winnings in accordance with § 272.17.

(1) Regaining Eligibility. Such households shall remain ineligible until they meet the allowable resources and income eligibility requirements described in §§ 273.8 and 273.9, respectively.

(2) Substantial Winnings.-- (i) In General. Substantial lottery or gambling winnings are defined as a cash prize equal to or greater than \$25,000 won in a single game before taxes or other withholdings. If multiple individuals shared in the purchase of a ticket, hand, or

similar bet, then only the portion of the winnings allocated to the member of the SNAP household would be counted in the eligibility determination.

(ii) Adjustment. The value of substantial winnings shall be adjusted annually, as needed, by multiplying the gross monthly income limit for a household of three by 12 months and rounding the value to the nearest \$5000.

(s) Disqualification for certain convicted felons. An individual shall not be eligible for SNAP benefits if:

(1) The individual is convicted as an adult of:

(i) Aggravated sexual abuse under Section 2241 of Title 18, United States Code;

(ii) Murder under Section 1111 of Title 18, United States Code;

(iii) An offense under Chapter 110 of Title 18, United States Code;

(iv) A Federal or State offense involving sexual assault, as defined in 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or

(v) An offense under State law determined by the Attorney General to be substantially similar to an offense described in clause (i), (ii), or (iii) and

(2) The individual is not in compliance with the terms of the sentence of the individual or the restrictions under § 273.11(n).

(3) The disqualification contained in this subsection shall not apply to a conviction if the conviction is for conduct occurring on or before February 7, 2014.

12. In § 273.12:

a. Add paragraph (a)(1)(viii)

b. Revise paragraph (a)(4)(iv)

c. Revise paragraph (a)(5)(iii)(E); and

d. Revise paragraph (a)(5)(vi)(B).

The revisions to read as follows:

§273.12 – Requirements for Change Reporting Households.

(a) * * *

(1) * * *

(viii) whenever a member of the household wins substantial lottery or gambling winnings in accord with § 273.11(r).

(4) * * *

(iv) *Content of the quarterly report form.* The State agency may include all of the items subject to reporting under paragraph (a)(1) of this section in the quarterly report, except changes reportable under paragraphs (a)(1)(vii) of this section, or may limit the report to specific items while requiring that households report other items through the use of the change report form.

(5) * * *

(iii) * * *

(E) The periodic report form shall be the sole reporting requirement for any information that is required to be reported on the form, except that a household required to report less frequently than quarterly shall report:

(1) when the household monthly gross income exceeds the monthly gross income limit for its household size in accordance with paragraph (a)(5)(v) of this section;

(2) whenever able-bodied adults subject to the time limit of § 273.24 have their work hours fall below 20 hours per week, averaged monthly, and;

(3) whenever a member of the household wins substantial lottery or gambling winnings in accord with § 273.11(r).

* * * * *

(vi) * * *

(B) * * *

(1) The household has voluntarily requested that its case be closed in accordance with § 273.13(b)(12);

(2) The State agency has information about the household's circumstances considered verified upon receipt;

(3) A household member has been identified as a fleeing felon or probation or parole violator in accord with § 273.11(n);

(4) There has been a change in the household's PA grant, or GA grant in project areas where GA and food stamp cases are jointly processed in accord with § 273.2(j)(2); or

(5) The State agency has verified information (including information considered verified upon receipt) that a member of a SNAP household has won substantial lottery or gambling winnings in accordance with § 273.11(r).

* * * * *

_____, November 17, 2016_____

Audrey Rowe

Date

Administrator

Food and Nutrition Service

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